

# Open and Public Meetings Act

## A Summary of Key Provisions for the DAS Rate Committee

2015

*The Open and Public Meetings Act was enacted upon the premise that the state, its agencies, and its political subdivisions exist to conduct the people's business. As such, a public body should deliberate and take action openly ([Section 52-4-102](#)).*

### Definitions ([Section 52-4-103](#))

- **"Meeting"** means the convening of a public body ... with a **quorum** present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body ... has jurisdiction or advisory power. ([Subsection 52-4-103\(6\)\(a\)](#))
- **"Meeting"** does not mean: a chance gathering or social gathering.... ([Subsection 52-4-103\(6\)\(b\)\(i\)](#))
- **"Public Body"** means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that: (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution; (ii) consists of two or more persons; (iii) expends, disburses, or is supported in whole or in part by tax revenue; and (iv) is vested with the authority to make decisions regarding the public's business. ([Subsection 52-4-103\(9\)\(a\)](#))
- **"Quorum"** means a simple majority of the membership of a public body, unless otherwise defined by applicable law. ([Subsection 52-4-103\(10\)\(a\)](#))

### DAS Rate Committee

**63A-1-114(2)(b)** – Requires the committee to conduct meetings in accordance with [Title 52, Chapter 4, Open and Public Meetings Act](#).

### Public Notice ([Section 52-4-202](#))

- A public body must give notice at least 24 hours before the meeting.
- The notice must include:
  - the date, time, and place of the meeting;
  - an agenda that lists specific topics to be considered;
- A public body must:
  - post notice at the location of the meeting;
  - post notice on the Utah Public Notice Website; and
  - provide notice to a newspaper or local media correspondent.
- A public body may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic.

### Minutes and Recordings ([Section 52-4-203](#))

- A public body shall keep written minutes and a recording of all meetings. A recording is not required for a site visit if no vote or action is taken by the public body.
- Pending minutes shall indicate that the public body has not yet approved the minutes and be available to the public within 30 days of the meeting.
- Within three business days after holding a public meeting, a recording of an open meeting shall be posted on the Utah Public Notice Website.
- Within three business days after approving written minutes, the approved minutes and any public materials distributed at the meeting shall be
  - posted on the Utah Public Notice Website, and
  - made available at the public body's primary office.

## Minutes and Recordings, continued ([Section 52-4-203](#))

- Minutes must include:
  - meeting date and time, meeting place, and the names of all members present and absent;
  - all matters proposed, discussed or decided;
  - all names and substance of information from individuals giving testimony;
  - individual votes on each matter; and
  - any additional information requested by a member.

## Closed Meetings ([Sections 52-4-204](#), [52-4-205](#), and [52-4-206](#))

- It is unlikely that the DAS Rate Committee will close a meeting.
- A meeting may only be closed for reasons enumerated in statute (e.g., discussing pending or imminent litigation).
- Certain actions may not be taken during a closed meeting (e.g., approval of an ordinance, resolution, rule, regulation, contract, or appointment)

## Emergency Meetings ([Section 52-4-202](#))

- A public body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen circumstances arise that require urgent consideration. However, a public body may not hold an emergency meeting unless it makes an attempt to notify all members of the public body and a majority of its members approve the meeting.
- The best notice practicable must be given.
- The minutes include a statement of the unforeseen circumstances that made the meeting necessary.

## Electronic Meetings ([Sections 52-4-207](#))

"A public body may not hold an electronic meeting unless the public body has adopted a ... rule ... governing the use of electronic meetings."

## Penalties ([Sections 52-4-302](#) and [52-4-305](#))

- **Open Meetings**—Any final action taken in violation of the Open and Public Meetings Act is voidable by a court.
- **Closed Meetings**—It is a class B misdemeanor (6 months Jail, \$1,000.00 fine, or both) to knowingly or intentionally violate closed meeting provisions of the Open and Public Meetings Act.

## Other Provisions

- The Open Public Meetings Act does not restrict members of a public body from transmitting an electronic message to other members of the public body when the body is not in an open meeting. ([Section 52-4-210](#))
- Enforcement: OPMA may be enforced by:
  - the courts,
  - the Attorney General,
  - a County Attorney, or
  - a private citizen who is an aggrieved party ([Section 52-4-303](#))
- Time limitation to pursue corrective action:
  - 90 days, or
  - 30 days if action involves bonds, notes, or debt. ([Section 52-4-302](#))
- The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter. ([Section 52-4-104](#))